

Cotc, J

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In Re:

G.M. CROCETTI, INC.,

Debtor.

G.M. CROCETTI, INC.,

Plaintiff,

v.

TRATAROS CONSTRUCTION, INC. and  
TRAVELERS CASUALTY AND SURETY  
COMPANY,

Defendants,

TRATAROS CONSTRUCTION, INC. and  
TRAVELERS CASUALTY AND SURETY  
COMPANY,

Third Party Plaintiffs,

v.

DORMITORY AUTHORITY - STATE OF NEW  
YORK; TDX CONSTRUCTION CORP.; KOHN  
PEDERSEN FOX ASSOCIATES, P.C.; CAROLINA  
CASUALTY INSURANCE COMPANY; BARTEC  
INDUSTRIES INC.; DAYTON SUPERIOR  
SPECIALTY CHEMICAL CORP. a/k/a DAYTON  
SUPERIOR CORPORATION; ZURICH AMERICAN  
INSURANCE COMPANY; ASSURANCE  
COMPANY OF AMERICA; OHIO CASUALTY  
INSURANCE COMPANY; HARLEYSVILLE  
INSURANCE COMPANY OF NEW JERSEY; JOHN  
DOES 1-20 and XYZ CORPS. 1-20,

Third Party Defendants.

Case No. 08-CV-6239 (DLC)

ECF CASE

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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**STIPULATION OF  
DISCONTINUANCE AS TO  
THIRD-PARTY CLAIMS  
AGAINST ZURICH AMERICAN  
INSURANCE COMPANY  
AND ASSURANCE COMPANY  
OF AMERICA**

**WHEREFORE** the within action was previously consolidated for discovery purposes only with a prior civil action entitled Travelers Casualty and Surety Company, et al. v. Dormitory Authority - State of New York, et al., Case No. 07-CV-6915 (DLC) (the "Travelers Action"), and

**WHEREFORE** the Second Amended Third-Party Complaint, alleging claims against Zurich American Insurance Company ("Zurich") and Assurance Company of America ("Assurance"), *inter alia*, was filed in the within action by Trataros Construction, Inc. ("Trataros") and Travelers Casualty and Surety Company ("Travelers") on or about November 28, 2008, and

**WHEREFORE**, on or about February 19, 2010, Assurance filed a motion for summary judgment in the Travelers Action, on grounds of alleged lack of coverage under certain policies of insurance, and said motion having been ruled upon by this Court in an Opinion and Order entered on or about July 30, 2010 (the "Order"), and

**WHEREFORE**, the parties to the within action have consented and stipulated to the consolidation of the trial of within action with the trial of the Travelers Action, therefore it is

**STIPULATED AND AGREED** by and between the attorneys for the undersigned parties to the within action that the third-party claims alleged by Trataros and Travelers in the within action against Zurich and Assurance are hereby discontinued without prejudice only to the extent of and so as to conform with the Order entered by the Honorable Denise L. Cote, U.S.D.J., disposing of Assurance's motion for summary judgment on coverage grounds in the Travelers Action, and without costs and fees to any party; and it is further

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**STIPULATED AND AGREED** that this Stipulation may be executed in counterparts,  
that for purposes of this Stipulation, facsimile signatures will have the same effect as original  
signatures.

DATED: September 14, 2010

**DREIFUSS BONACCI & PARKER, LLP**  
*Attorneys for Defendants/Third-Party Plaintiffs,*  
*Trataros Construction, Inc. and*  
*Travelers Casualty and Surety Company*  
26 Columbia Turnpike, North Entrance  
Florham Park, New Jersey 07932  
Tel. No. (973) 514-1414

By: 

JoAnne M. Bonacci, Esq.

**MELITO & ADOLFSEN, P.C.**  
*Attorneys for Third-Party Defendants,*  
*Zurich American Insurance Co. and*  
*Assurance Company of America*  
233 Broadway  
New York, New York 10279

By: 

S. Dwight Stephens, Esq. (SS 2161)

**SO ORDERED:**

  
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THE HONORABLE DENISE L. COTE, U.S.D.J. 

Sept. 17, 2010